

# **EXHIBIT 1**

**Rothstein, James K.**

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**From:** Justin Lee <justin.lee@wg-law.com>  
**Sent:** Wednesday, February 10, 2021 8:34 AM  
**To:** Leigh, Daniel  
**Cc:** Rothstein, James K.; V. David Rivkin  
**Subject:** RE: Follow up

[EXTERNAL MESSAGE]

Many thanks Daniel for the below. This generally reflects my understanding. Just note that with respect to Hendrik's [REDACTED] and the source code from codecentric, I did not commit to having those items by Thursday, but only that I would advise you if I had not received a follow-up from florigunn by then. We have already advised them about those issues (including again just yesterday) and they are working to address them. I also don't believe I committed to identifying and producing the florigunn-codecentric agreement but I will raise it with florigunn.

Best regards,

WUERSCH & GERING

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**From:** Leigh, Daniel <dleigh@omm.com>  
**Sent:** Tuesday, February 9, 2021 10:48 PM  
**To:** Justin Lee <justin.lee@wg-law.com>  
**Cc:** Rothstein, James K. <jrothstein@omm.com>; V. David Rivkin <david.rivkin@wg-law.com>  
**Subject:** RE: Follow up

Justin,

Thank you for taking the time to talk with us today. Below is my understanding of our discussion. If I have misunderstood anything, please advise me as soon as possible.

With respect to the missing email metadata, which we raised in our email to you last Wednesday, February 3, we understand that you will now start work on providing us the missing metadata (as specified in the ESI Order) and will produce the missing metadata to us by next week. As you know, florigunn has not produced a single email to us with the metadata required by the ESI Order, and the absence of this metadata hampers our preparations for depositions and trial. We do not concede the propriety of any redactions, but we understand that you will provide metadata to us with the identities redacted of non-US individuals who have not agreed to disclose their identities. As we communicated today, please ensure that there are no erroneous redactions in your production of metadata and please provide pseudonyms for redacted individuals that are consistent throughout your productions.

Regarding the other matters we discussed:

- We understand that there are [REDACTED] establishing Hendrik Saly's [REDACTED] that extend past January 27, 2021, and we understand that you will update us if you do not receive those [REDACTED] by this Thursday.
- We understand that you will confirm that Hendrik Saly has not used any account to perform work related to Search Guard other than <https://github.com/salyh>, <https://github.com/floragunn>, and <https://git.floragunn.com/hsaly>.
- **RFP 100:** We understand that you will update us on Thursday if you have not received responsive source code from codecentric by that day. You also said that you are working on identifying and producing the floragunn-codecentric agreement.
- **RFP 104:** We understand that you searched for communications with AWS, that the volume was small, and that you will produce documents responsive to this request.
- **RFP 106:** We understand that you have run the search terms we provided and will produce responsive documents.
- **RFP 114:** We agree to limit this request to (1) release notes for the first versions of Search Guard that included each section of accused code and (2) all press releases, announcements, and blog posts related to features that are enabled by the accused code. As we discussed, we have alleged the commit date and file for each section of accused code in the *floragunn I* FAC and the *floragunn II* Complaint, and we believe your client possesses sufficient knowledge to determine without burden (1) the first version in which each section of accused code was released and (2) the features enabled by the accused code. We believe the volume of floragunn press releases, announcements, release notes, and blog posts is sufficiently small that there is no excessive burden on your client. Please let us know as soon as possible if you contend this request is too burdensome despite our agreed limitation and the nature of any such burden.
- **RFP 115:** We understand that no responsive documents exist other than those you have already produced to us.
- **RFP 116:** We understand that no responsive documents exist other than those you have already produced to us.
- **RFP 118:** We understand that you will use the search criteria we provided and will produce responsive documents.
- We understand that you will confirm whether the email address [dbennett@search-guard.com](mailto:dbennett@search-guard.com) is under floragunn's control and is included in your custodial set.

We also understand that you intend to make a production to us this week, and another production next week or shortly thereafter.

Best,  
Daniel

**O'Melveny**

**Daniel H. Leigh**

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**From:** Justin Lee <[justin.lee@wg-law.com](mailto:justin.lee@wg-law.com)>  
**Sent:** Monday, February 8, 2021 6:07 PM  
**To:** Leigh, Daniel <[dleigh@omm.com](mailto:dleigh@omm.com)>  
**Cc:** Rothstein, James K. <[jrothstein@omm.com](mailto:jrothstein@omm.com)>; V. David Rivkin <[david.rivkin@wg-law.com](mailto:david.rivkin@wg-law.com)>  
**Subject:** RE: Follow up

[EXTERNAL MESSAGE]

Thanks Daniel. Yes, 4pm ET works for me. I should have an update on the email metadata tomorrow as well. I'll also check with the client team on Hendrik's [REDACTED].

WUERSCH & GERING

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**From:** Leigh, Daniel <[dleigh@omm.com](mailto:dleigh@omm.com)>  
**Sent:** Monday, February 8, 2021 7:38 PM  
**To:** Justin Lee <[justin.lee@wg-law.com](mailto:justin.lee@wg-law.com)>  
**Cc:** Rothstein, James K. <[jrothstein@omm.com](mailto:jrothstein@omm.com)>; V. David Rivkin <[david.rivkin@wg-law.com](mailto:david.rivkin@wg-law.com)>  
**Subject:** RE: Follow up

Hi Justin,

We'd like to follow up on the issues below, as well as get an update on the timing of your productions. Are you free for a phone call tomorrow at 1pm PT/4pm ET?

I also wanted to raise a couple issues separately:

1. Could you please give us an update on the email metadata issue? We are eager to resolve this issue.
2. Following up on David Eberhart's email from Friday afternoon, is there a [REDACTED] for Hendrik Saly that extends beyond January 27, 2021?

Thank you,  
Daniel

**O'Melveny**

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**From:** Justin Lee <[justin.lee@wg-law.com](mailto:justin.lee@wg-law.com)>  
**Sent:** Wednesday, February 3, 2021 2:44 PM  
**To:** Leigh, Daniel <[dleigh@omm.com](mailto:dleigh@omm.com)>  
**Cc:** Rothstein, James K. <[jrothstein@omm.com](mailto:jrothstein@omm.com)>; V. David Rivkin <[david.rivkin@wg-law.com](mailto:david.rivkin@wg-law.com)>  
**Subject:** RE: Follow up

[EXTERNAL MESSAGE]

Daniel,

Thanks for the below. With respect to the RFAs, those are admitted. With respect to the RFPs, I confirm our understanding. I've reached out to our vendor about RFPs 104 and 106. If there's a large volume of documents that are too burdensome to review, then I'll circle back with you. I'll also raise the metadata issue related to the emails with our vendor. I'll circle back on that as well once I have an understanding of the issue.

Many thanks.

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**From:** Leigh, Daniel <[dleigh@omm.com](mailto:dleigh@omm.com)>  
**Sent:** Wednesday, February 3, 2021 11:40 AM  
**To:** Justin Lee <[justin.lee@wg-law.com](mailto:justin.lee@wg-law.com)>  
**Cc:** Rothstein, James K. <[jrothstein@omm.com](mailto:jrothstein@omm.com)>; V. David Rivkin <[david.rivkin@wg-law.com](mailto:david.rivkin@wg-law.com)>  
**Subject:** RE: Follow up

Justin,

Thanks for getting on the phone with us yesterday.

To confirm our understanding based on the call:

- **RFAs Nos. 214 and 215:** You will confirm whether your response is an admission, notwithstanding any "based upon" language.
- **RFP No. 100:** You said you are checking if codecentric is in possession of the requested source code, and you will also check whether you have produced floragunn's agreement with codecentric.
- **RFP No. 104:** You agreed to check on the volume of communications with Amazon (based on a search of email metadata).

- **RFP No. 106:** We agreed to provide search terms related to infringing floragunn code, and you will run those terms on the universe of GitHub comments. Please see below for search terms.
- **RFP No. 114:** You agreed to talk with your client about locating press releases, announcements, release notes, and blog posts related to Search Guard versions and features enabled by the infringing code.
- **RFP No. 115:** You will look for documents related to the price testing mentioned in DEF033656, along with other efforts floragunn has made to determine the price for Search Guard.
- **RFP No. 116:** You will check with your client about documents related to the determination of discounts for Search Guard.
- **RFP No. 118:** We agreed to send you search terms. We propose the terms ((Shield OR "X-Pack" OR "X Pack") w/10 (open! OR (source /s available))) within the date range March 1, 2018 to June 7, 2018.

Separately, it has come to our attention that we are missing metadata for most or all of the emails that floragunn has produced. (DEF028898 is one example of an email that we are missing metadata for.) Per our ESI stipulation, the parties have agreed to provide metadata for the To, From, CC, BCC, SentDate, SentTime, and Subject fields for emails. Please send us a metadata overlay with the correct metadata for emails as soon as possible.

Thanks,  
Daniel

**Search terms for RFP No. 106:** ((Document /s level /s security) OR "document-level" OR DLS OR (Field /s level /s security) OR "field-level" OR FLS OR (parse /s next) OR "login redirect" OR "PrivilegesEvaluator.java" OR "PrivilegesEvaluator" OR "IndicesRequest" OR "CompositeIndicesRequest" OR "DefaultIndicesResolver.java" OR "DefaultIndicesResolver" OR "login\_controller.js" OR "login\_controller" OR "parse\_next.js" OR "parse\_next" OR "Angular JS user management" OR "user management UI" OR "role management UI" OR "index.html" OR "filterbar.html" OR filterbar OR "users.html" OR ("empty section" w/10 "buttons" w/10 "positioned consistently") OR "action.equals" OR "BulkRequest" OR "Bulk Update" OR "ESA-2017-18" OR "Authorization Bulk" OR "switch(bir.request().opType())" OR "for(DocWriteRequest)" OR "AuthorizationService.java" OR "AuthorizationService" OR "if(action.equals)" OR "DlsFlsValveImpl.java" OR "DlsFlsValveImpl" OR "IndicesAliasesRequestInterceptor.java" OR "IndicesAliasesRequestInterceptor" OR "CompositeIndicesRequests" OR "composite actions" OR "searchguard\_saved\_objects\_client.js" OR "searchguard\_saved\_objects\_client" OR "secure\_saved\_objects\_client.js" OR "secure\_saved\_objects\_client" OR "Kibana RBAC" OR "saved objects middleware" OR "intercept saved objects" OR "Update is not supported when FLS or DLS is activated" OR "BulkShardRequestInterceptor.java" OR "BulkShardRequestInterceptor" OR "Can't execute a bulk request" OR "aliasRequest.getAliasActions" OR "Managing aliases is not supported" OR "@todo Why the snake case here?" OR "kuiToolBarSearch" OR "getLiveDocs" OR "numDocs" OR "BitSet" OR "IndexSearcher" OR "Filtered Reader" OR IndexReader" OR "DlsFlsFilterLeafReader.java" OR "DlsFlsFilterLeafReader" OR "DocumentSubsetReader.java" OR "DocumentSubsetReader" OR "live documents" OR "Improve dls/fls" OR (Elastic /s (binaries or binary)) OR "search-guard-module-dlsfls" OR "source filtering" OR "FlsFilterLeafReader.java" OR "FlsFilterLeafReader" OR "FieldSubsetReader.java" OR "FieldSubsetReader" OR "ShieldNettyHttpServerTransport.java" OR "ShieldNettyHttpServerTransport" OR "SearchGuardSSLNettyHttpServerTransport.java" OR "SearchGuardSSLNettyHttpServerTransport" OR (SSL /s exception /s log! /s plaintext) OR (get /s next /s url) OR "get\_next\_url.js" OR "get\_next\_url" OR (saved /s objects /s client) OR (AngularJS /s management /s screens) OR "callWithRequestFactory" OR "call\_with\_request\_factory.js" OR "call\_with\_request\_factory" OR Watcher OR Signals OR (fetch /s all /s from /s scroll) OR "fetchAllFromScroll" OR "fetch all" OR "fetch\_all\_from\_scroll.js" OR "fetch\_all\_from\_scroll" OR watches OR (bulk /s create) OR "SearchGuardFilter.java" OR "SearchGuardFilter" OR "Privilege.java")

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**From:** Justin Lee <[justin.lee@wg-law.com](mailto:justin.lee@wg-law.com)>

**Sent:** Monday, February 1, 2021 8:56 AM

**To:** Leigh, Daniel <[dleigh@omm.com](mailto:dleigh@omm.com)>

**Cc:** Rothstein, James K. <[jrothstein@omm.com](mailto:jrothstein@omm.com)>; V. David Rivkin <[david.rivkin@wg-law.com](mailto:david.rivkin@wg-law.com)>

**Subject:** RE: Follow up

[EXTERNAL MESSAGE]

Thanks Daniel. That works for us.

WUERSCH & GERING

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**From:** Leigh, Daniel <[dleigh@omm.com](mailto:dleigh@omm.com)>

**Sent:** Monday, February 1, 2021 11:50 AM

**To:** Justin Lee <[justin.lee@wg-law.com](mailto:justin.lee@wg-law.com)>

**Cc:** Rothstein, James K. <[jrothstein@omm.com](mailto:jrothstein@omm.com)>; V. David Rivkin <[david.rivkin@wg-law.com](mailto:david.rivkin@wg-law.com)>

**Subject:** Re: Follow up

Thanks, Justin. How about Tuesday at 11am PT/2pm ET?

## O'Melveny

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On Jan 31, 2021, at 9:03 PM, Justin Lee <[justin.lee@wg-law.com](mailto:justin.lee@wg-law.com)> wrote:

[EXTERNAL MESSAGE]

Just for clarity, that's Tuesday afternoon EST for us and Tuesday morning PT for you.

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On Jan 31, 2021, at 10:57 PM, Justin Lee <[justin.lee@wg-law.com](mailto:justin.lee@wg-law.com)> wrote:

Thanks Daniel. Are you available Tuesday afternoon? That works better for us.

Thanks.

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On Jan 31, 2021, at 9:23 PM, Leigh, Daniel <[dleigh@omm.com](mailto:dleigh@omm.com)> wrote:

Hi Justin,

Thanks for the email. Let's try to connect on Monday—are you available 11am PT/2pm ET?

Here's what we're hoping to discuss:

- **RFP No. 100:** We understand from prior correspondence that the source code we requested may be in the possession of codecentric AG. Has florigunn attempted to obtain this source code from codecentric, since such code may be under florigunn's control?



- **RFP No. 104:** We would like to discuss your burden and privilege objections.
- **RFPs Nos. 106, 114–116:** We would like to discuss the scope of these requests and your search for responsive documents.
- **RFP No. 118:** We would like to discuss your vagueness objection and your search for responsive documents.

Best,  
Daniel

## O'Melveny

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**From:** Justin Lee <[justin.lee@wg-law.com](mailto:justin.lee@wg-law.com)>

**Sent:** Friday, January 29, 2021 1:49 PM

**To:** Leigh, Daniel <[dleigh@omm.com](mailto:dleigh@omm.com)>

**Subject:** Re: Follow up

### [EXTERNAL MESSAGE]

Daniel, got your voicemail. I'm offline right now. Happy to talk on Monday but it's probably easier and faster to just send me a quick email about the responses. Let me know.

Thanks.

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